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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

GEN-PROBE, INCORPORATED,

Plaintiff,

v.

VYSIS, INC.,

Defendant.

CASE NO. 99CV 2668H (AJB)

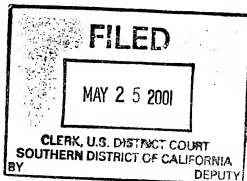
**DECLARATION OF THOMAS W.
BANKS IN SUPPORT OF VYSIS'
OPPOSITION TO GEN-PROBE'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

Date: June 8, 2001
Time: 10:30 a.m.
Dept.: Courtroom 1

I, Thomas W. Banks, declare and state as follows:

1. I have personal knowledge of the facts set forth in this declaration.

2. I am an attorney licensed to practice in the State of California and admitted to practice in the United States District Court for the Southern District of California. I am a partner at the law firm of Finnegan, Henderson, Farabow, Garrett & Dunner, L.L.P., and represent Defendant Vysis, Inc. ("Vysis") in this litigation.



1 3. Attached as Exhibit A to this declaration is a true and correct copy of United States
2 patent application serial number 07/136,920, as filed on December 21, 1987, from the prosecution
3 history of the '338 patent.

4 4. Attached as Exhibit B to this declaration is a true and correct copy of the July 20,
5 1990 Office Action (Paper No. 2) in application serial no. 07/136,920 from the prosecution history
6 of the '338 patent.

7 5. Attached as Exhibit C to this declaration is a true and correct copy of the March 12,
8 1992 Office Action (Paper No. 2) in application serial no. 07/644,967 from the prosecution history
9 of the '338 patent.

10 6. Attached as Exhibit D to this declaration is a true and correct copy of the November
11 5, 1992 Office Action (Paper No. 3) in application serial no. 07/944,505 from the prosecution history
12 of the '338 patent.

13 7. Attached as Exhibit E to this declaration is a true and correct copy of the December 5,
14 1995 Preliminary Amendment and Response to Restriction Requirement (Paper No. 8) in application
15 serial no. 08/238,080 from the prosecution history of the '338 patent.

16 8. Attached as Exhibit F to this declaration is a true and correct copy of the October 16,
17 1997 Notice of Allowability (Paper No. 23) in application serial no. 08/238,080 from the prosecution
18 history of the '338 patent.

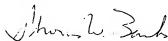
19 9. Attached as Exhibit G to this declaration is a true and correct copy of the January 16,
20 2001 Interview Summary (Paper No. 12) in the application for reissue of the '338 patent, serial no.
21 09/533,906.

22 10. Attached as Exhibit H to this declaration is a true and correct copy of page 262 of the
23 transcript of the deposition of Jonathon Michael Lawrie taken February 15, 2001.

24 11. Attached as Exhibit I to this declaration is a true and correct copy of page 184 of the
25 transcript of the deposition of James C. Richards taken March 30, 2001.

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2 I declare under penalty of perjury under the laws of the United States of America that the
3 foregoing is true and correct to the best of my knowledge and belief.

4 Executed this 24th day of May, 2001 at Palo Alto, California.

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Thomas W. Banks